

FCC MAIL SECTION

FCC 92M-974

Before The
FEDERAL COMMUNICATIONS COMMISSION
SEP 23 2 51 PM '92 Washington, D.C. 20554

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In re Applications of
ALEXANDER SNIPE, JR. d/b/a
GLORY COMMUNICATIONS
VALENTINE COMMUNICATIONS, INC.
For Construction Permit for a New
FM Station on Channel 237A
in South Congaree, South Carolina

DISPATCHED BY

) MM DOCKET NO. 92-184 ✓
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) File No. BPH-910228MC
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) File No. BPH-910228MD
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MEMORANDUM OPINION AND ORDER

Issued: September 21, 1992; Released: September 23, 1992

1. Alexander Snipe, Jr., d/b/a Glory Communications (Snipe) and Valentine Communications, Inc. (Valentine) have submitted a settlement package for approval. They filed their package on September 8, 1992, and it consists of three pleadings: (1) a Petition for Leave to Amend filed by Snipe; (2) a Motion to Delete Contingent Environmental Issue filed by Snipe; and (3) a Joint Request for Approval of Settlement Agreement filed by Snipe and Valentine. If the settlement package is approved we can terminate this proceeding without the need for an administrative hearing.

2. The Audio Services Division submitted a letter that addresses Snipe's Petition for Leave to Amend on September 15, 1992. And the Mass Media Bureau filed comments supporting the Joint Request for Approval of Settlement Agreement on September 17, 1992.

Snipe's Petition for Leave to Amend

3. Snipe has submitted an amendment that addresses the contingent environment issue that has been designated against him. See 57 F.R. 38307 published August 24, 1992, Issue 1. There Snipe, via his consulting engineer, William A. Culpepper represents that he ". . . will limit the RF exposure of persons authorized to climb the tower by turning the transmitter off during the time such person is on the tower. . ."

4. In his September 15, 1992 letter the Chief, Audio Services Division indicates that he has examined Snipe's amendment and ". . . the Bureau finds that the information satisfies the requirements of 47 CFR § 1.1311."

5. Snipe's petition will be granted, and the amendment accepted. Acceptance of the amendment will permit a ruling on Snipe's concurrently filed Motion to Delete which will in turn permit analysis of the Joint Request for Approval of Settlement Agreement. That constitutes good cause.

Snipe's Motion to Delete Contingent Environmental Issue

6. Snipe claims the amendment that has just been accepted justifies the deletion of the contingent environmental issue that has been designated against him. The Chief, Audio Services Division agrees. He states, "[a]ccordingly, the Bureau requests that the contingent environmental issue specified as to this applicant be eliminated from the Hearing Designation Order."

7. The Motion to Delete will be granted. The Bureau is apparently satisfied that Snipe's representation (para. 3 supra.) constitutes a "continuing obligation" within Public Notice 24479: Radiofrequency Radiation and the Environment, released August 19, 1992. If the Bureau is satisfied, so is the Trial Judge. The Bureau's request will be granted, and the contingent environmental issue deleted.

The Joint Request for Approval of Settlement Agreement

8. Snipe's environmental amendment has been granted, and a favorable ruling has been made on his motion to delete the contingent environmental issue. We turn then to the "Joint Request for Approval of Settlement Agreement" that Snipe and Valentine have filed.

9. These two applicants have settled their differences. Valentine has agreed to dismiss their application. In return Snipe has agreed to pay Valentine's legitimate and prudent expenses in an amount not to exceed \$20,000.

10. The Mass Media Bureau is satisfied that the Joint Request and the accompanying papers pass muster. They support granting the Joint Request for Approval of Settlement Agreement.

11. The Joint Request will be granted, and the settlement agreement approved. The parties have submitted the appropriate documents. See Oak Television of Everett, Inc., 53 RR 2d 995 (1983). There is no indication that either filed their application for an improper purpose. Also, the approval of the Agreement will speed up the start up of an FM station in South Congaree, South Carolina. So the public interest is furthered.

12. One more thing. As amended, Snipe is now qualified to construct and operate as proposed. So he can be granted subject to the divestiture condition set out in the Hearing Designation Order. See 57 F.R. 38307 published August 24, 1992, paras. 4 and 12.

SO, the "Petition for Leave to Amend" that Alexander Snipe, Jr. d/b/a Glory Communications filed on September 8, 1992, IS GRANTED, and the accompanying amendment IS ACCEPTED;

The "Motion to Delete Contingent Environmental Issue" that Snipe filed on september 8, 1992, IS GRANTED, and Issue 1 at 57 F.R. 38307 supra. IS DELETED;

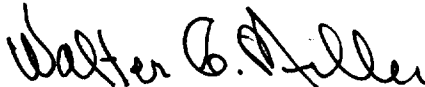
The "Joint Request for Approval of Settlement Agreement" filed by Alexander Snipe, Jr. d/b/a Glory Communications and Valentine Communications, Inc. on September 8, 1992, IS GRANTED; and the accompanying Settlement Agreement IS APPROVED;

Valentine Communications Inc.'s application (File No. BPH-910228MC), as amended, IS GRANTED subject to the following condition:

"Alexander Snipe, Jr. will divest himself of all interests in and sever all connections with Station WWDM(FM), Sumter, South Carolina, prior to the commencement of program test authority on BPH-910228MC."

This proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS

A handwritten signature in black ink, appearing to read "Walter C. Miller", is written over the typed name.

Walter C. Miller
Administrative Law Judge